

STATEMENT OF DR. ROBERT L. FAIRMAN, ASSISTANT SECRETARY FOR ADMINISTRATION
OF THE DEPARTMENT OF TRANSPORTATION,
BEFORE THE HOUSE SUBCOMMITTEE ON
SMALL BUSINESS ADMINISTRATION AND SBIC AUTHORITY, MINORITY ENTERPRISE
AND GENERAL SMALL BUSINESS PROBLEMS
APRIL 10, 1984.

Mr. Chairman and Members of the Committee:

I am Dr. Robert Fairman, Assistant Secretary for Administration of the Department of Transportation (DOT). On behalf of Secretary Dole, who was not able to be here today, I reiterate her personal commitment to contracting with small and small disadvantaged businesses, both in our direct procurement program, which obligates about \$1.5 billion per year, and our financial assistance program, where about \$18 billion per year is provided primarily to state and local governments, principally for road construction, mass transportation projects, and airport improvements. With me today is Armando Nena, our newly appointed Director of our Office of Small and Disadvantaged Business, and Roger Martino, Chief, Procurement Management Division, who is on my staff.

The Department has an excellent record of contracting with small and small disadvantaged businesses. The table below indicates our procurement history with respect to direct contracting with small and disadvantaged businesses.

DEPARTMENT OF TRANSPORTATION
Achievements for Fiscal Years 1981, 1982 and 1983
(Dollars in Thousands)

	<u>FY 1981</u>	<u>FY 1982</u>	<u>FY 1983</u>
<u>TOTAL PROCUREMENTS</u>	<u>\$1,694,231</u>	<u>\$1,215,980</u>	<u>\$1,563,669</u>
1. Contracts Over \$10,000 Awarded to Small Business Concerns	604,207*/	554,565**/	489,061***/
2. Contracts Over \$10,000 Awarded to 8(a)	86,209	96,199	149,965
3. Contracts Over \$10,000 Awarded To Small Business Concerns Owned & Controlled by Socially & Economically Disadvantaged Individuals	19,808	13,709	25,321
4. Contracts Over \$10,000 Awarded to Small Business Concerns Owned & Controlled by Women	24,891	14,711	26,482

With respect to subcontracting, our subcontracting accomplishments are as follows:

	<u>FY 1981</u>	<u>1982</u>	<u>1983</u>
Total Subcontracting	158,685	180,434	209,063
Small Business Subcontracting	71,000	70,283	111,629
Small Disadvantaged Business Subcontracting	25,851	31,969	33,408

*/ 35.6% of total procurement
 **/ 45.6% of total procurement
 ***/ 31.3% of total procurement

Note

Recently the Coast Guard discovered a major mistake in their small business statistics for FY 1982. The table above reflects the changes which add \$113,180 to the total direct awards to small business, and reduce by \$75,800 the total subcontract awards to small business. Revised data will be supplied to SBA within ten days.

I am pleased to report that the process of negotiating small and disadvantaged subcontracting plans, which was required by P.L. 95-507 and was subsequently incorporated into the Federal Procurement Regulations, has been institutionalized in the Department. Because many of the Department's larger procurements of ships, aircraft, radars, electronic equipment, and construction lend themselves to subcontracting, most of our large contracts contain small and disadvantaged subcontracting plans. Our procurement requests and proposed subcontracting plans are made available to the SBA Procurement Center Representatives (PCR) for review, provided the activity is serviced by a PCR, and comments from the PCR are considered before the final plan is negotiated.

It is important to note that when DOT awards a large dollar contract to small businesses, P.L. 95-507 does not require small or small disadvantaged business subcontracting to be reported. Therefore, we believe that subcontracting to small and disadvantaged businesses needs to be reviewed in the context of the percentage of the Department's total procurement budget which is awarded to small and disadvantaged businesses. One of the major

shows that the Department's statistics do not show even more subcontracting to small and disadvantaged businesses has been the success of our small business set-aside program, and the Section 8(a) program. The Department has a class set aside for small businesses for all construction procurements under \$2 million where there is adequate small business competition. The Coast Guard has also set aside a number of large ship procurements for small businesses, and, therefore, no subcontracts have been reported. Presently, the Coast Guard is evaluating best and final offers from small businesses for the acquisition of new patrol craft. This procurement was set aside totally for small businesses, with the total award expected in the \$100 million range.

In addition, we have substantially increased our awards to Section 8(a) firms under the regular 8(a) program. As you know, Mr. Chairman, DOT was selected as the sole participant in the Pilot 8(a) program under which we plan to increase awards to Section 8(a) firms even more. In FY 1981, our 8(a) awards totaled \$86 million. In FY 1983, these awards increased to \$150 million, and we expect to increase that amount in FY 1984.

Our outreach programs are extensive. The Minority Business Resource Center, established under the Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act), works closely with DOT grant recipients and DOT regional offices to increase direct contract and subcontract awards to small and disadvantaged businesses. In addition, DOT has established twelve Program Management Centers which provide assistance to small disadvantaged contractors doing business as prime and subcontractors in both our direct procurement and financial assistance program. The centers are operated by Section 8(a) contractors and are funded at a total of \$3.1 million per year. We have established a program with the Fireman's Fund Insurance Company to help provide bonding to disadvantaged businesses performing on transportation related projects. We have also established a short-term lending program which is administered by the Atlantic National Bank. Through this program the Department will make \$4 million available for DBE's and WBE's performing on transportation related projects. Moreover, the staff of the Office of Small and Disadvantaged Business and procurement personnel throughout the Department attend procurement conferences, outreach seminars, meet with trade associations and businesses to give out information on doing

business with the Department. We provide up-to-date procurement pamphlets which describe our programs, and include current telephone numbers of all of our procurement offices. The Office of Small and Disadvantaged Business also works closely with some of our larger contractors, to help identify small and small disadvantaged business subcontracting sources.

The Federal Aviation Administration (FAA) recently awarded competitively a \$305M five-year cost-plus-award-fee contract to Martin Marietta with two option periods totaling another five years, for system engineering and integration related to FAA's National Airspace System Program. The Request for Proposal set a goal that 10% of the total dollar awarded under the contract would be subcontracted. This week the Office of the Secretary agreed to assist Martin-Marietta in identifying additional small and disadvantaged business sources to assist them in meeting their subcontract goals.

The approved subcontracting plan for the initial five year period includes the following:

1. Total dollars planned to be subcontracted: \$126 million

2. Total dollars planned to be subcontracted to small business concerns: \$32.1 million or 25% of item 1.
3. Total dollars planned to be subcontracted to small disadvantaged business concerns: \$24.1 million or 19% of item 1.

The contract contains an award fee provision. One of the considerations in the award fee determination will be subcontract management and goal accomplishment.

The Federal Highway Administration has also developed a unique direct Federal subcontracting compensation clause, which they have used to increase awards to small disadvantaged businesses on construction projects. The clause provides for reimbursement of the prime contractor for additional costs incurred in locating, mobilizing, and training small disadvantaged business subcontractors. Payments to the contractors for these activities have averaged between 10 to 15 percent of the amount contracted to small disadvantaged businesses. FHWA plans to use this clause in almost all of their direct construction contracts awarded in FY 1984, or about 250 contracts this fiscal year.

With respect to the recommendations in House Report 97-956 addressed to all Federal Buying Agencies, we have developed the statistics regarding the subcontracting program as set out in Recommendation 1. The Office of Small and Disadvantaged Business Utilization has recently developed a system for collecting such information on a quarterly basis and we would be happy to submit such reports to the Committee in the future. We have also supplied the necessary information to the SBA in compliance with Recommendation 2, and we are waiting for additional guidance from the Office of Federal Procurement Policy on Recommendation 3 relating to debarment. While we have not implemented the personnel performance standards for administrative contracting officers and procuring contracting officers recommended by the Committee in Recommendation 4, Secretary Dole has directed that performance appraisals for merit pay and senior executive service positions that include contracting responsibilities establishing minority business enterprise efforts as a critical job element.

With regard to your specific questions concerning our subcontracting activities, we have addressed those in detail in the Attachment to this statement.

Mr. Chairman, this concludes my prepared statement. I will be happy to answer any questions you may have.

Attachment

Answers To Specific Questions Posed by the Committee

General

This attachment provides answers to the specific questions addressed to the Department. The statistics provided have been developed manually since there is no automated system available which collects the subcontracting data requested. The statistics provided to answer questions one and four are based on the best information available and is not complete. Some of the contract files for FY 1981 and FY 1982 awards have been sent to the records center, and were not available to review.

1. Number and dollar value of contracts awarded during the last three years which contained subcontracting plans

(\$ in 000s)

	<u>FY 1981</u>	<u>FY 1982</u>	<u>FY 1983</u>
Number of Contracts	34	41	56
Dollar Value	\$301,467	\$131,522	\$720,633

This table excludes the value of DOT Orders under General Services Administration (GSA) contracts where GSA has negotiated an approved subcontracting plan.

2. Number and dollar value of contracts awarded during the last three

years which did not contain subcontracting plans, but which were required by law to contain such plans. What corrective action was taken regarding these awards? How many contracts have not been modified to include plans?

Our review found only one deficient contract. This contract requires a plan but does not presently contain one. The details of that contract are as follows:

Contract Number: DTCG-40-83-C-10229

Contracting Activity: Coast Guard Yard, Curtis Bay

Contractor: General Electric

Item: Diesel generators

Contract Amount: \$829,889

Status: Contract was awarded on August 2, 1983 without the required subcontracting plan. A plan was requested on November 19, 1983, but the proposed plan submitted was determined not to be adequate. A revised plan is due now.

3. How many plans did SBA review during the last three years? What was the number found deficient and dollar value of such contracts?

Ernest L. Bernhardt, the Small Business Administration's Procurement Center Representative (PCR) assigned to the Department of Transportation

headquarters, provided the following information on his review of subcontracting plans.

(\$ in 000s)

	<u>No. of Proposed Contracts Reviewed</u>	<u>\$ Value of Total Contracts Reviewed</u>	<u>No. of Contracts Returned w/Comments</u>	<u>\$ Value of Subcontracts in Proposed Contracts Returned w/Comments</u>
FY 1981	39	Not Available	14	\$34,000
FY 1982	40	Not Available	16	25,000
FY 1983	35	Not Available	5	35,000
SUBTOTAL	<u>114</u>		<u>35</u>	<u>94,000</u>

Field PCR data for FY 81, 82 and 83 combined				
	<u>21</u>		<u>5</u>	<u>35,000</u>
TOTAL	135		40	129,000

Note: Totals include proposed contracts reviewed more than once.

4. Total dollar value of all subcontracts awarded during the last three years under prime contracts containing plans and the dollar value and percentage of subcontracts awarded to small and small disadvantaged businesses.

(\$ in 000s)

		Small Business		DBE	
		<u>Awards</u>		<u>Awards</u>	
<u>Total Subcontract</u>	<u>Dollars Awarded</u>	<u>Percent</u>	<u>Dollars</u>	<u>Percent</u>	<u>Dollars</u>
FY 81	\$ 98,194	43.3	\$42,533	3.9	\$8,733
FY 82	116,908	33.5	39,142	7.4	6,571
FY 83	129,976	48.7	63,355	7.1	7,477

5. Total number and dollar value of all prime contracts awarded where the prime was found to be in non-compliance and any remedial actions taken including debarment proceedings.

None

6. Describe any outreach program that the Department of Transportation may have to assist small and small disadvantaged businesses interested in subcontracting with the Department of Transportation's large prime contractors.

There are many specific ways the DOT assists small and small disadvantaged businesses interested in subcontracting, including:

- o Individual counseling with small companies at DOT offices throughout the country.
- o DOT participation in federal procurement conferences, trade fairs, procurement conferences, and association meetings which are pointed toward one-on-one counseling.
- o The Minority Business Resource Center, established to increase minority participation in railroad procurement, has expanded its mission to work with small and disadvantaged businesses under both financial assistance and direct procurement program.

- o The twelve DOT Program Management Centers, located throughout the country and funded under contract in the amount of \$3M per year, provides management and technical assistance to disadvantaged businesses throughout the country. They also provide referrals to DOT's short-term loan and bonding company.
- o The Office of Small and Disadvantaged Business has established a program with the Fireman's Fund Insurance Company to provide bonding to disadvantaged business performing on transportation related contracts, including subcontracting.
- o The Office of Small and Disadvantaged Business has established a short-term lending program which is administered by the Atlantic National Bank. Through this program, the Department makes available approximately \$4 million dollars for DBE's and WBE's performing on transportation related projects.
- o We provide up-to-date procurement pamphlets which describe our procurement program, which includes current telephone numbers for all our procurement offices.
- o The Office of Small and Disadvantaged Business also works closely with some of our large business contractors to help them locate small business sources.
- o In addition, UMTA is sponsoring an innovative program providing

"60 million in bonding assistance for minority and women contractors engaged in mass transit construction. Although this assistance relates to Federally assisted rather than direct Federal construction, this initiative is another example of the outreach efforts DOT is making for small and small disadvantaged businesses.

7. Give the number and dollar value of prime contracts awarded where the goals recited in plans were not met. What is the average goal attainment for both small and small disadvantaged business?

This information is not available from our procurement offices at this time.